

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DURANE BARROW,

Plaintiff,

Case No. 06-12186

v.

Hon. John Corbett O'Meara

AMICA MUTUAL INSURANCE COMPANY,

Defendant.

**ORDER DENYING PRE-TRIAL MOTIONS
WITHOUT PREJUDICE AND GRANTING
PLAINTIFF'S MOTION FOR RECONSIDERATION**

Before the court are several pre-trial motions, including motions in limine and Plaintiff's motion for reconsideration. The court addressed these motions on the record on October 16, 2007, the first day of trial.

In his motion for reconsideration, Plaintiff requests a reexamination of the court's decision precluding Plaintiff from recovering penalty interest. In Griswold Properties L.L.C. v. Lexington Ins. Co., __ N.W.2d __, 2007 WL 2568000 (Mich. App. Sept. 6, 2007), the Michigan Court of Appeals convened a special panel to clarify the law with respect to the recovery of penalty interest in first-party insurance actions. The Griswold court concluded that "a first-party insured is entitled to 12 percent penalty interest if a claim is not timely paid, irrespective of whether the claim is reasonably in dispute." Id. In light of Griswold, the court will grant Plaintiff's motion for reconsideration. If Plaintiff prevails at trial, he will be entitled to 12 percent penalty interest pursuant to M.C.L. 500.2006(4).

As stated on the record, the remaining pending motions are denied without prejudice.

The court will address the evidentiary issues raised in these motions as they come up during the course of the trial.

Accordingly, IT IS HEREBY ORDERED that Defendant's September 12, 2007 motion in limine regarding Plaintiff's proposed rebuttal expert [docket # 20] is DENIED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that Defendant's October 8, 2007 motion in limine regarding evidence of Plaintiff's claim history [docket # 22] is DENIED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that Defendant's October 10, 2007 motion in limine regarding admissibility of criminal conviction [docket # 23] is DENIED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that Plaintiff's October 12, 2007 motion for reconsideration [docket # 24] is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's October 12, 2007 motion in limine [docket # 25] is DENIED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that Defendant's October 15, 2007 motion for protective order [docket # 27] is DENIED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that Plaintiff's October 16, 2007 motion in limine regarding prior claims and litigation history [docket # 28] is DENIED WITHOUT PREJUDICE.

s/John Corbett O'Meara
United States District Judge

Date: October 17, 2007

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, October 18, 2007, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager